

DEPARTMENT OF STATE A/CDC/MR OUTGOING AIRGRAM

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Department of State

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A-570 February 4, 1953

Re Embassy's Despatch 1171 of December 18, 1952, requesting background information on Article 6 of the Air Transport Agreement.

Paragraph a of Article 6 providing for just and reasonable charges for use of public airports and other facilities not higher than would be paid by national aircraft engaged in similar international services, is based primarily on Article 15 of the Chicago Convention which provides that any charges imposed or permitted to be imposed by a contracting state for the use of airports and air navigation facilities by aircraft of other contracting states shall not be higher "(b) as to aircraft engaged in scheduled international air services, than those that would be paid by its national aircraft engaged in similar international air services". Only in exceptional cases are airports in the United States under the control of the federal government. Generally speaking, airports are operated by private enterprise, by municipalities, or by special airport operating arrangements within a state. In practice, airport charges may be graduated according to the weight of the aircraft and the number of landings in a specified period. ICAO has been studying airport charges throughout the world but has so far made no firm recommendation although reports have been published. Although complaints have arisen from time to time with regard to the level of airport charges, no case is known in which the charges have been discriminatory against the aircraft of foreign countries or of any specific foreign country.

Paragraph b of Article 6 is based in part on Article 24 (b) of the Chicago Convention which provides for importation free of duty of spare parts and equipment for incorporation in or use on an aircraft of another contracting state engaged in international air navigation. This paragraph adds that such importation shall be subject to compliance with the regulations of the state concerned which may provide that the articles shall be kept under customs supervision and control. In the United States the additional articles referred to in paragraph b of Article 6 may be imported under similar conditions. It is required that items stocked in the United States be kept under customs supervision. Generally speaking, this means that they are kept in bonded warehouses.

Paragraph (c)

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Paragraph c of Article 6 has no precedent in the Chicago Convention. However, the treatment provided for in that paragraph can be given under United States law. Applicable legislation includes Title 26, United States Code, Section 3451, Title 19; Sections 1309 and 1317. Under all of these statutes exemption can be granted only on a basis of reciprocity.

Paragraph d is based in part on Article 24 (a) of the Chicago Convention which provides for exemption with regard to fuel, lubricating oils, spare parts, regular equipment and aircraft stores on board an aircraft of a contracting state on arrival in the territory of another contracting state and remaining on board when an aircraft leaves that state.

The provisions of the United States Code cited above are the authority in the United States for complying with paragraphs b, c, and d of Article 6. Since reciprocity is required and since the statutes give the Treasury Department the authority to grant exemptions when the Secretary of Commerce has advised the Secretary of the Treasury that such reciprocity is granted, it is necessary that there be evidence of Japanese reciprocal treatment of United States aircraft in order to have the exemptions granted by the United States. On the assumption that the United States Code is available in the Embassy, the texts of the applicable laws are not transmitted.

The Embassy may also be interested in knowing that over a long period of time the ICAO Council studied the question of taxation burdens and in a State letter of October 18, 1951 transmitted to the states parties to the Chicago Convention a series of three resolutions and one recommendation with regard to exemptions from taxation covering the matters covered by Article 6. A copy of the ICAO paper is being transmitted under DS-4.

Matthews
ACTING (N.G.B.)

S/S - CR

FEB 4 1953 P.M.

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N.G.B.